

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

DARRELL MORRIS, INDIVIDUALLY AND AS)	
AN HEIR AT LAW OF CHARLES MORRIS,)	
Plaintiff,)	
)	
v.)	C.A. No.:
)	
U.S. BANK NATIONAL ASSOCIATION,)	
AS TRUSTEE FOR THE)	
CERTIFICATEHOLDERS OF THE CSMC,)	
MORTGAGE BACKED PASS-THROUGH)	
CERTIFICATES, SERIES 2007-1, AND)	
SELECT PORTFOLIO SERVICING, INC.,)	
Defendants.)	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND:

Defendants U.S. Bank National Association, as Trustee on behalf of the holders of the CSMC Mortgage-Backed Pass-Through Certificates, Series 2007-1 (the “Trustee”) and Select Portfolio Servicing, Inc. (“SPS”) (collectively “Defendants”), respectfully give notice they have removed the above-entitled action to the United States District Court for the District of Rhode Island from the Superior Court of the State of Rhode Island, Kent County, and for their Notice of Removal state as follows:

1. Defendants are named in a civil action filed and pending in Kent County Superior Court entitled Darrell Morris, et al., v. U.S. Bank National Association, as Trustee, et al., C.A. No. KC-2019-00589 filed on May 24, 2019. A copy of the Complaint is attached hereto as **Exhibit A**.
2. This suit is of a wholly civil nature. The Complaint alleges conduct taking place in Rhode Island and concerning property in Rhode Island described as 94 Reservoir Road,

Glocester, Rhode Island (the “Property”). Under 28 U.S.C. §§ 120 and 1441(a), the United States District Court for the District of Rhode Island is a proper forum for removal.

3. This Court has original jurisdiction over this action under 28 U.S.C. § 1332 due to diversity of citizenship of the parties and an amount in controversy which exceeds the jurisdictional amount. Complete diversity of citizenship of the parties to this action exists. Plaintiff is an individual residing in Rhode Island. (Complaint, ¶ 1). Defendant Select Portfolio Servicing, Inc. is a Utah corporation. (Complaint, ¶ 10). Defendant U.S. Bank National Association is a national bank with a principal place of business located in Minneapolis, Minnesota. A national banking association is deemed a citizen of the state in which its main office is located. See 28 U.S.C. § 1348; Wachovia Bank, N.A. v. Schmidt, 546 U.S. 303, 307 (2006). Therefore, for the purposes of diversity jurisdiction, Defendant U.S. Bank National Association is a citizen of Minnesota.
4. The value of the matter in controversy exceeds \$75,000, exclusive of interest and costs. “Courts have repeatedly held that the value of the matter in controversy is measured not by the monetary judgment which the plaintiff may recover but by the judgment's pecuniary consequences to those involved in the litigation.” Richard C. Young & Co., Ltd. v. Leventhal, 389 F.3d 1, 3 (1st Cir. 2004). Plaintiff entered into a loan agreement and executed a mortgage (the “Mortgage”) dated September 22, 2006 in the original principal amount of \$999,999.00. (Complaint, ¶ 3, attached to Complaint at Exhibit A). The current assessed value of the property is \$750,500.00. (**Exhibit B**). The object of the litigation is the Property and the Mortgage. Plaintiff contests the Trustee’s foreclosure of the Mortgage by a sale of the Property. The action implicates the rights of the Trustee

to enforce the Mortgage. If Plaintiff prevails, the Trustee may be barred from enforcing the Mortgage and Plaintiff may retain title to the Property by avoiding a foreclosure sale of the Property. Alternatively, the Trustee will have the right to enforce the Mortgage through a foreclosure sale and possibly extinguish Plaintiff's interest in the Property. Therefore, the ultimate pecuniary consequence to the parties to this action exceeds \$75,000. In addition, the amount in controversy is satisfied where Plaintiff seeks declaratory and injunctive relief barring the enforcement of the Mortgage through foreclosure. Plaintiff primarily brings this action to stop a foreclosure sale of the Property by the Trustee. The amount-in-controversy in a claim for equitable relief is "measured by the value of the object of the litigation." Hunt v. Walsh State Apple Adver. Commission, 432 U.S. 333, 347 (1977). Where, as here, a plaintiff challenges the foreclosure of a mortgage, the "object of the litigation" is the property at issue and the subject mortgage loan. See Aliberti v. GMAC Mortg., LLC, 779 F.Supp.2d 242, 245 (D.Mass. 2011); McKenna v. Wells Fargo Bank, N.A., 693 F.3d 207, 212 (1st Cir.2012); Bedard v. Mortgage Electronic Registration Systems, Inc., 2011 WL 1792738, at * 3 (D.N.H. May 11, 2011) (collecting cases). The amount in controversy is satisfied.¹

5. Defendants file this Notice within thirty (30) days of the date this action became removable.
6. Defendants will file a copy of this Notice with the Clerk of the Kent County Superior Court, and will serve a copy of the Notice of Removal on all other parties. (**Exhibit D**).
7. Defendants will file a certified or attested copy of the state court record with this Court within fourteen (14) days after the filing of this Notice, or as soon as received.

¹ On May 24, 2019, Plaintiffs obtained a temporary restraining order to stop the foreclosure sale of the Property scheduled for May 28, 2019. (**Exhibit C**). No sale is pending.

WHEREFORE, Defendants U.S. Bank National Association, as Trustee and Select Portfolio Servicing, Inc. give notice that the above action now pending in Kent County Superior Court is removed to United States District Court for the District of Rhode Island.

Respectfully submitted,

**U.S. BANK NATIONAL ASSOCIATION,
AS TRUSTEE, AND SELECT PORTFOLIO
SERVICING, INC.,**

By their attorneys,

/s/ Peter F. Carr, II
Peter F. Carr, II (R.I. Bar #5343)
Carson M. Shea (R.I. Bar #9744)
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Dated: May 31, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those parties which are as non-registered participants as well as to counsel of record in the state court proceedings:

John B. Ennis
1200 Reservoir Avenue
Cranston, RI 02920

/s/ Peter F. Carr, II
Peter F. Carr, II

Dated: May 31, 2019